IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
AT CLARKSBURG

ERIE INSURANCE PROPERTY
& CASUALTY COMPANY, INC.,

Plaintiff,

v. CIVIL ACTION NO. 1:09-CV-0113

CRAIG A. EDMOND, JANET EDMOND,
DREAMLAND DEVELOPMENT, LLC,
d/b/a PLEASANT DAY SCHOOOLS,
LATASHA HENRY, DONNA
CALANDRELLA, CRYSTAL SMITH
And CHRISTINA HATCHER McGERVEY,

Defendants.

**RESPONSE OF DEFENDANTS, CRAIG A. EDMOND, JANET EDMOND AND DREAMLAND DEVELOPMENT, LLC d/b/a PLEASANT DAY SCHOOLS TO MOTION TO DISMISS OR, IN THE ALTERNATIVE, MOTION TO STAY**

COME NOW the defendants, Craig A. Edmond, Janet Edmond and Dreamland Development, LLC, d/b/a Pleasant Day Schools (collectively “the Edmonds”), by counsel, and hereby respond to the Motion to Dismiss, or in the Alternative, Motion to Stay filed by the co-defendants, Latasha Henry, Donna Calandrella, Crystal Smith and Christina Hatcher McGervey. The Edmonds support the Motion and agree that the Complaint for Declaratory Judgment filed by the plaintiff, Erie Insurance Property & Casualty Company, Inc. (“Erie”), should be dismissed in favor of the underlying action pending in the Circuit Court of Monongalia County, West Virginia pursuant to *Nautilus Ins. Co. v. Winchester Homes, Inc*. 15 F.3d 371 (4th Cir. 1991). *See also Old Republic Ins. Co. v. Massey Energy Co.*, No. 2:07-0669, 2008 U.S. Dist. LEXIS 34781 *8 (S.D.W.Va. 2008) (West Virginia has compelling interest in having its own courts decide dispute where it involves insurance policies sold to companies existing and doing business in West Virginia, the underlying claims allege bodily injury and property damage to persons and property located in West Virginia, the alleged damage was caused by operations conducted in West Virginia and the forum selected by all these parties to try the issues is West Virginia). Should this Court retain jurisdiction of the present case, however, it should be stayed pending a resolution of the underlying action. The Edmonds hereby incorporate the arguments advanced by co-defendants Henry, Calandrella, Smith and McGervey in their Motion and Memorandum.

WHEREFORE, for the reasons set forth above and in the Motion to Dismiss or, In the Alternative, Motion to Stay, the defendants Craig A. Edmond, Janet Edmond and Dreamland Development, LLC, d/b/a Pleasant Day Schools hereby respectfully request that the Court dismiss the present declaratory judgment action, and grant such other and further relief as the Court may deem proper.

CRAIG A. EDMOND, JANET EDMOND,
DREAMLAND DEVELOPMENT, LLC,
d/b/a PLEASANT DAY SCHOOLS,

By counsel,

/s/ Erica M. Baumgras
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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
AT CLARKSBURG

ERIE INSURANCE PROPERTY
& CASUALTY COMPANY, INC.,

Plaintiff,

v. CIVIL ACTION NO. 1:09-CV-00113

CRAIG A. EDMOND, JANET EDMOND,
DREAMLAND DEVELOPMENT, LLC,
d/b/a PLEASANT DAY SCHOOOLS,
LATASHA HENRY, DONNA
CALANDRELLA, CRYSTAL SMITH
And CHRISTINA HATCHER McGERVEY,

Defendants.

**CERTIFICATE OF SERVICE**

I, Erica M. Baumgras, counsel for the defendants, Craig A. Edmond, Janet Edmond, Dreamland Development, LLC, d/b/a Pleasant Day Schools, do hereby certify that the foregoing RESPONSE OF DEFENDANTS, CRAIG A. EDMOND, JANET EDMOND AND DREAMLAND DEVELOPMENT, LLC d/b/a PLEASANT DAY SCHOOLS TO MOTION TO DISMISS OR, IN THE ALTERNATIVE, MOTION TO STAY has been served upon the following counsel of record via the CM/ECF system for the United States District Court, Northern District of West Virginia on this the 4th day of December, 2009:

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